CF 100/-

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO.3547 OF 2003

PETITIONER

B. P. Sharma, S/o Late Pyarelal Sharma, aged About 76 years, Occupation Retd. Chief Engineer, Deptt. Of Irrigation, R/o A-32, Vidyanagar,Bilaspur,Tahsil & District Bilaspur [CG]

P. R. No. 3352/03
Presented by Shri K.U. Rajput Singh
dated 29.10.03

V E R S U S

RESPONDENTS

1. Municipal Corporation Through Commissioner, Municipal Corporation, Bilaspur [Chhattisgarh]

2. Commissioner, Municipal Corporation, Bilaspur [CG]

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

XI-HC-22

(62)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.3547/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	09.02.2004 Shri Manindra Shrivastava, counsel for the petitioner. The petitioner has raised his grievance by this petition under Article 226 & 227 of the Constitution of India that he is the owner and in possession of the land admeasuring 4.08 acres situated in Patwari Halka No.110, Khasra No.202, at Revenue Division, popularly known as 'Dipupara' area. The petitioner through a registered sale deed purchased the said piece of land in the year 1974. However, the possession of the petitioner was interfered with by the functionaries of the Municipal Corporation in the name of public work of construction of drainage, tarring of road and development of approach road to other colonies and residential areas. Perforce the petitioner had to file a civil suit for grant of declaration and injunction, which was decreed and the appellate court has also dismissed the appeal of the respondents. However, the corporation continued to carry on the activities of construction of roads, drainages, bridges and joining six other roads to the land of the petitioner and developed it as a road of the Corporation. Not only this, the Corporation constructed road, drains etc. and also prepared a map showing the exit and approach from the land of the petitioner as a public road and thereby allowed easmentary rights of others to be created. This all was done inspite of the civil Court judgment in favour of the petitioner. When the petitioner found that so many persons and residents of the area have started using the land of the petitioner as a public road with full	

(63)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 3547/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (2)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

cooperation and tacit consent of the Corporation and the Corporation made all the arrangements to convert it into a public road, the petitioner was left with no other option but to make an application to the Corporation that as the land has now become a part of the public road and it would be impossible for him to stop the public at large, Corporation should pay compensation to him. However, the petitioner's application was arbitrarily, illegally and perfunctorily rejected by the Commissioner, Municipal Corporation, against which the petitioner has preferred an appeal before the Committee and the Committee is not deciding the appeal of the petitioner since last more than two years. The petitioner made reminders but they were not answered or attended to.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that inspite of all efforts made by the petitioner the appeal of the petitioner is not decided and it is still lying pending before the Committee since last more than two years.

Having heard learned counsel for the petitioner, having regard to the facts and circumstances of the case, very limited question has been raised in this petition regarding the fact that the Committee of the respondents-Corporation is not deciding the appeal of the petitioner. The Committee ought to have considered the appeal and decide the same on its own merit and the petitioner is being denied from his legal rights, as the respondent-Corporation has converted his land into a public land.

(64)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 3547/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (3)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In the facts and circumstances of the case, the Committee is directed to decide the appeal of the petitioner as expeditiously as possible not later than three months from today. With the above direction, the petition stands disposed of. Consequently I.A. No. 10158/2003 for urgent hearing also stands disposed of. Certified copy as per rules. **Sd/-** **L.C. Bhadoo** **Judge**	